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TAGS: ECON EFIN EINV SOCI IN

SUBJECT: MINISTER FOR CORPORATE AND MINORITY AFFAIRS PROMOTES  
CORPORATE GOVERNANCE AND AFFIRMATIVE ACTION; MAHINDRA CONTINUES TO  
DIGEST" SATYAM

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**¶11. (SBU)** Summary: In a recent talk in Mumbai, Salman Khurshid, Union Minister of State for Corporate Affairs and Minority Affairs, promised a "hands off" attitude towards the state's role in corporate governance. He praised the effective handling of the Satyam scandal, but called for further government efforts on establishing auditing and corporate social responsibility policies. In his "Minority Affairs" role, Khurshid renewed the call for reservations in the private sector for disadvantaged groups, a stance which the corporate world has consistently opposed. In a separate conversation, the new owners of Satyam, Mahindra & Mahindra, expressed confidence in their turn-around of the company, but acknowledged that intellectual property right disputes and class action suits in the U.S. could pose a serious financial risk. End Summary.

Corporate Affairs Minister Promises "Light Touch"

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**¶12. (U)** ConGenOff attended an address by Salman Khurshid, the Union Minister of State for Corporate Affairs and Minority Affairs. This talk, sponsored by the All-India Industries Association of India, was part of Khurshid's first trip out of New Delhi since taking office late May. In his presentation, Khurshid laid out his "hands off" approach towards corporations, stating that the government should not micromanage corporations and that shareholders, not the government, should determine basic elements of corporate governance and reporting. Khurshid reminded the audience that their primary investor and customer is the "aam admi," or common man, and that government's challenge is to demystify the "corporation" for him. He agreed with his predecessor's decision to change the ministry's name from the Ministry of Companies to the Ministry of Corporate Affairs, believing that "company" has a narrow legalistic definition, whereas "corporate" is broader and includes issues such as management and social responsibility.

**¶13. (U)** In addressing the Satyam crisis, where the Ministry of Corporate Affairs intervened to appoint a management board to control, restructure, and sell the company after its owners

admitted to a multi-billion dollar fraud, Khurshid claimed that the company's near-collapse was a remarkable opportunity snapped from the jaws of crisis. He favorably compared the Indian government's approach to the crisis, where talented business leaders were sent in to resurrect the company, to the U.S. government's large financial bailouts for banks. He suggested that the Indian government will follow this model in the future for failing companies, if necessary. Noting that current regulations allow for an individual to serve as a director on up to 15 corporate boards, Khurshid asserted that only a "Super CEO" would be able to provide the needed oversight to execute their responsibilities diligently. (Note: The number of board memberships allowed has recently been reduced from 20 to 15, and many, like Khurshid, argue it should be reduced further still. End Note.) Khurshid also stated that regularly changing a corporation's auditors - for instance, every three years - could promote greater corporate responsibility and avoid situations like Satyam in the future.

**¶4.** (U) Swapping hats to his "Minority Affairs" role, Khurshid extolled "affirmative action" by corporations for scheduled and backward castes. (Note: "Scheduled castes" is the official term for untouchables, or dalits. End Note.) Khurshid said he would like to see "affirmative action" expanded to not only include lower castes, but also other disadvantaged groups such as women, the poor, and the handicapped. (Comment: This directly echoes statements made by Prime Minister Singh in his 2007 "Ten Point Social Charter," in which he stated that "industry must be proactive in offering employment to the less privileged, at all levels of the job ladder," and praised the Confederation of Indian Industries "Report on Affirmative Action," which called for aggressive steps on the part of industry to hire and retain these type of employees. End Comment.) According to Khurshid, the Indian government needs to be more proactive in developing a code of Corporate Social Responsibility (CSR). He suggested that "social credits,"

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similar to "carbon credits," would provide corporations the incentives they need to take on greater responsibility.

Mahindra Pleased with Satyam Buy, Despite Legal Problems

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**¶5.** (SBU) In a separate conversation, Bharat Doshi, the Chief Financial Officer of Mahindra & Mahindra, told Congenoff that the company was pleased with its purchase of Satyam. (Note: After the company was restructured, the Indian government auctioned Satyam to the highest bidder, which was TechMahindra, a relatively smaller IT company. American investment bankers Goldman Sachs brokered the sale and described Mahindra's bid as a "surprise winner," in that TechMahindra was the smallest of the bidding companies, yet its bid was significantly greater than the next highest. After their winning bid, the company struggled to line up the financing; Goldman Sachs characterized their bid as "a far reach that almost didn't get there." End Note.) Doshi admitted that Mahindra has found a few more financial problems in Satyam - which was expected - but expects resolution soon. According to Doshi, TechMahindra worked quickly to stave off the loss of customers, which was crucial in preserving the health of the company. They were forced to put 8,000 workers on 40 percent pay, but have reinstated 1,000 workers at full pay since then, and expect to hire more in the next few months. Doshi added that since TechMahindra was considerably smaller than Satyam, there will continue to be "digestion" problems.

**¶6.** (SBU) Referring to those "digestion problems," a senior executive from Cognizant, a rival firm, told Congenoff in Chennai that Satyam is struggling to maintain its clients. He acknowledged that while Satyam is retaining a good number of

clients for whom it is too difficult to extract themselves from Satyam (i.e. they rely on Satyam for complicated, core IT systems), the company is not getting any new business. Those legacy clients are looking to other IT partners for any new projects, fearing further entanglement with Satyam. He also noted that Satyam's staff has been picked over by its competitors - many of the strong employees have been drawn to other companies, leaving Satyam with particularly weak middle management.

¶7. (SBU) Doshi's biggest concern is the two legal cases in the U.S. against Satyam, which TechMahindra has inherited. The first is an intellectual property rights (IPR) case in Texas, which predates the scandal, and the second is a class action suit prompted by shareholders in New York. Doshi stated that the plaintiff in the IPR suit is asking for damages of \$1 billion, "even though the company had never had revenues more than \$20 million in its history." Doshi claims that the case is being heard in a jurisdiction notoriously sympathetic to plaintiffs, and fears that TechMahindra will be seen as a "foreign outsider" by the jury. The company is taking no chances, and is advertising its local investments - Mahindra has a tractor factory in Texas - and has become a NASCAR sponsor. Doshi is more worried about the class action suit, where plaintiffs are suing Satyam for fraud (Note: Satyam was listed on the New York Stock Exchange. End Note.) Doshi expects settlements in both cases; Mahindra weighed the risks of class action suits before buying, and has calculated that if the amounts do not exceed \$300 million overall, the purchase will have been worthwhile.

¶8. (SBU) Comment: Khurshid's call for reservations in the private sector, if serious, will raise concerns among corporations, which have long opposed such a move. His calls to reform some corporate governance rules, however, will likely be welcomed. Many believe that too many boards are packed with independent directors who aren't independent, or who are on too many boards to provide responsible oversight. With the Indian corporate landscape dominated by family-owned companies, however, the composition of most boards are unlikely to make too

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much of a difference. As for Satyam, Mahindra's turnaround efforts will be complicated by the legacy risks of Satyam, with the U.S. courts now the center of activity. As these cases go to trial, we should expect negative publicity to follow. End Comment.

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